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21 *And Linda Johnson Rice*

22 UNITED STATES DISTRICT COURT

23 NORTHERN DISTRICT OF CALIFORNIA

24 IN RE TESLA, INC. SECURITIES
25 LITIGATION

26 Case No. 3:18-cv-04865-EMC

27 **DEFENDANTS' ADMINISTRATIVE
28 MOTION TO SHORTEN TIME TO HEAR
DEFENDANTS' MOTION TO TRANSFER
VENUE**

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that Defendants hereby move pursuant to Civil Local Rules 6-3 and 7-11 to shorten time for the Court to hear Defendants' Motion to Transfer Venue. Given the January 17, 2023 trial date and impending pre-trial deadlines, Defendants respectfully request an expedited hearing on this motion. Specifically, Defendants request that the Motion be heard on January 13, 2023 at 9:00 a.m., Plaintiff's Opposition to Defendants' Motion to Transfer Venue be due January 11, 2023, and Defendants' Reply be due January 12, 2023.

This motion is based on the Memorandum of Points and Authorities below, the Declaration of Michael Lifrak and the exhibits attached thereto, the arguments of counsel, and any other matters properly before this Court. Pursuant to Paragraph 11 of the Court's Civil Standing Order, Defendants also submit a proposed order.

DATED: January 6, 2023

Respectfully submitted,

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By: /s/ Alex Spiro

Alex Spiro (appearing *pro hac vice*)

*Attorneys for Tesla, Inc., Elon Musk, Brad W. Buss,
Robyn Denholm, Ira Ehrenpreis, Antonio J. Gracias,
James Murdoch, Kimbal Musk, And Linda Johnson Rice*

MEMORANDUM OF POINTS AND AUTHORITIES

Defendants have filed a Motion to Transfer Venue in advance of the January 17, 2023 trial in his action in order protect against prejudice and bias by a jury pool subject to excessive adverse pretrial publicity concerning Defendant Elon Musk. The Motion to transfer is currently set for hearing, pursuant to Civil Local Rule 7-2, for February 16, 2023—well after trial is scheduled to conclude. Thus, in light of the relief requested in their Motion—a transfer of venue for trial or a brief trial continuance to mitigate the harm caused by recent pretrial publicity in this District—Defendants will be deprived of the remedy they seek and suffer substantial harm and prejudice if their Motion to Transfer Venue is not heard before trial starts. Accordingly, Defendants respectfully request that the Court grant this instant motion and set their Motion to Transfer Venue for hearing at the Status Conference scheduled for January 13, 2023 at 9:00 a.m, with Plaintiff’s Opposition due January 11, 2023, and Defendants’ Reply due January 12, 2023.

Civil Local Rule 6-3 allows the Court to shorten time to hear a motion where “substantial harm or prejudice would occur if the Court did not change the time.” Civil. L.R. 6-3(a)(3). Here, Defendants would face substantial harm if denied the opportunity to be heard on their Motion, which seeks to remedy the prejudice caused by excessive and adverse pretrial publicity and protect the right to an impartial jury. Defendants will be deprived of their opportunity to protect these rights should trial begin before their Motion to Transfer Venue is heard. (Declaration of Michael T. Lifrak (“Lifrak Decl.”) ¶ 4.)

Shortened time is required here because a jury will be impaneled on January 17, 2023—far sooner than the usual 35-day notice schedule allows. *See Noble v. Kiewit Pac. Co.*, No. C 08-00666 SI, 2008 U.S. Dist. WL 413754, at *1 (N.D. Cal. Feb. 13, 2008) (granting motion to shorten time where 35-day delay could “render moot the underlying motion”); Lifrak Decl. ¶ 2.) Time modifications have been previously granted in this case at ECF Nos. 34, 321, 357, and 358. Granting Defendants’ request to shorten time in this instance will not impact the case schedule—Defendants are seeking to have their Motion to Transfer Venue heard before trial commences at the cases’ previously scheduled Status Conference on January 13, 2023. (*Id.* ¶ 7.) As of this filing, Plaintiff did not stipulate to have the Motion heard on shortened notice. (*Id.* ¶ 3.)

1 For the reasons stated herein, Defendants respectfully request that the Court shorten time
2 to hear Defendants' Motion to Transfer Venue from February 16, 2023 to January 13, 2023 and
3 set Plaintiff's Opposition deadline to January 11, 2023 and Defendants' Reply deadline to January
4 12, 2023.

5 DATED: January 6, 2023

Respectfully submitted,

6 QUINN EMANUEL URQUHART & SULLIVAN, LLP
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8 By: /s/ Alex Spiro

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served on all counsel of record electronically or by another manner authorized under FED. R. CIV. P. 5(b) on this the 6th day of January 2023.

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By /s/ Alex Bergjans

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